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11 COUNTY OF SANTA CLARA

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 CITY AND COUNTY OF SAN
16 FRANCISCO,

17 Plaintiff,

18 v.

19 DONALD J. TRUMP, *et al.*,
20 Defendants.

21 **STIPULATION AND
22 FINAL JUDGMENT AND ORDER**

23 No. 3:17-cv-00485-WHO

24 COUNTY OF SANTA CLARA,
25 Plaintiff,

1 v.

2 DONALD J. TRUMP, *et al.*,
3 Defendants.

4 No. 3:17-cv-00574-WHO

5 WHEREAS, the underlying actions commenced as cases styled *City and County of San*
6 *Francisco v. Trump* (No. 3:17-cv-00485-WHO) and *County of Santa Clara v. Trump* (No. 3:17-cv-
7 00574-WHO), hereinafter collectively referred to as the “Litigation,” asserting claims challenging
8 the constitutionality of Section 9 of Executive Order Number 13768, entitled “Enhancing Public
9 Safety in the Interior of the United States” (“Section 9”);

10 WHEREAS, on November 20, 2017, the United States District Court for the Northern
11 District of California granted summary judgment in favor of Plaintiffs on these claims and entered a
12 permanent, nationwide injunction barring enforcement of Section 9;

1 WHEREAS, on August 1, 2018, in the Litigation upon appeal, the United States Court of
 2 Appeals for the Ninth Circuit affirmed the District Court's grant of summary judgement and
 3 injunction as to the Executive Order's effect in California but vacated the nationwide injunction for
 4 further consideration by the District Court (*see City and County of San Francisco v. Trump*, 897
 5 F.3d 1225 (9th Cir. 2018)); and

6 WHEREAS, the constitutionality of Section 9 is not currently being actively litigated
 7 elsewhere in the nation and the Parties wish to avoid the need to expend further resources on
 8 resolving these issues,

9 WHEREAS, assuming approval by the Court of the joint Stipulation and Final Judgment, the
 10 pending Case Management Conference scheduled for August 20, 2019 may be cancelled as moot,

11 NOW THEREFORE, the parties hereby jointly stipulate to the following:

- 12 1. Final Judgment is hereby entered in favor of the Plaintiffs on the merits for the
 13 reasons set forth in *City and County of San Francisco v. Trump*, 897 F.3d 1225 (9th
 14 Cir. 2018);
- 15 2. All Parties agree that the deadline for further review of the Ninth Circuit's August 1,
 16 2018 decision has passed. Out of an abundance caution, however, the Parties agree
 17 that Defendants shall not seek to pursue any further review from (1) the Ninth
 18 Circuit's decision of August 1, 2018, or (2) the final judgments entered in these cases.
- 19 3. The enforcement of Section 9 within the State of California is hereby enjoined;
- 20 4. Plaintiffs withdraw, without prejudice, their request for injunctive relief that would
 21 reach outside the State of California;
- 22 5. For the sake of clarity, nothing in this dismissal precludes Plaintiffs from seeking to
 23 renew their request for injunctive relief outside of the State of California by
 24 reopening this matter. In the event that Plaintiffs seek to re-open the above
 25 referenced cases, Defendants agree that any statute of limitations, statute of repose, or
 26 other time-related defense based on federal, state or any other law (including, but not
 27 limited to, defenses based on the doctrines of waiver, laches, acquiescence, or
 28 estoppel) that may be applicable to any of the claims asserted by Plaintiffs will be

deemed tolled. However, nothing in this dismissal precludes the United States from defending the merits of such a request; and

6. Each party in these actions will bear its own costs and attorney's fees.

1 Respectfully submitted,

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DONALD J. TRUMP, President of the
United States; UNITED STATES OF
AMERICA; KEVIN K. McALEENAN,
Acting Secretary of Homeland Security;
WILLIAM P. BARR, Attorney General of
the United States in *City & County of San
Francisco v. Trump, et al.*, No. 3:17-cv-
00485-WHO

25 COUNSEL FOR PLAINTIFF
26 COUNTY OF SANTA CLARA

DONALD J. TRUMP, President of the
United States; KEVIN K. McALEENAN,
Acting Secretary of Homeland Security;
WILLIAM P. BARR, Attorney General of
the United States; MICK MULVANEY,
Director of the Office of Management and
Budget in *County of Santa Clara v. Trump,*
et al., No. 3:17-cv-00574-WHO

ORDER

It appearing to the Court that the parties jointly request the following relief, it is hereby
ORDRED as follows:

1. Final Judgment is hereby entered in favor of the Plaintiffs on the merits for the reasons set forth in *City and County of San Francisco v. Trump*, 897 F.3d 1225 (9th Cir. 2018);
2. All Parties agree that the deadline for further review of the Ninth Circuit's August 1, 2018 decision has passed. Out of an abundance caution, however, the Parties agree that Defendants shall not seek to pursue any further review from (1) the Ninth Circuit's decision of August 1, 2018, or (2) the final judgments entered in these cases.
3. The enforcement of Section 9 within the State of California is hereby ENJOINED;
4. Plaintiffs' request for injunctive relief that would reach outside the State of California is DISMISSED WITHOUT PREJUDICE;
5. For the sake of clarity, this dismissal does not Plaintiffs' rights to seek to renew their request for injunctive relief outside of the State of California by reopening this matter. In the event that Plaintiffs seek to re-open the above referenced cases, Defendants agree that any statute of limitations, statute of repose, or other time-related defense based on federal, state or any other law (including, but not limited to, defenses based on the doctrines of waiver, laches, acquiescence, or estoppel) that may be applicable to any of the claims asserted by Plaintiffs will be deemed tolled. However, nothing in this dismissal precludes the United States from defending the merits of such a request; and
6. Each party in these actions shall bear its own costs and attorney's fees.

IT IS SO ORDERED.

DATED: August 15, 2019

W.H.Orrick
Hon. William H. Orrick
United States District Judge

ATTESTATION OF SIGNATURES

I, Javier Serrano, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern District of California, that concurrence in the filing of this document has been obtained from each signatory hereto.

/s/ Javier Serrano
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COUNSEL FOR PLAINTIFF

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